

Page 182

VOL. 2

PAGES 182 - 278

EXHIBITS 25 - 27

UNITED STATES DISTRICT COURT

FOR THE

DISTRICT OF NEW HAMPSHIRE

Civil Action 1:23-cv-00426-SM

AMRO FARID,)
Plaintiff)
v.)
TRUSTEES OF DARTMOUTH COLLEGE,)
Defendant)

CONTINUED VIDEOCONFERENCE DEPOSITION OF

JOHN MARK BARNES

Tuesday, April 22, 2025

12:03 p.m. - 2:41 p.m.

THE WITNESS APPEARED REMOTELY FROM

Boston, Massachusetts

Reporter: Lauren M. Mitchell, CSR, RPR, CRR

(RSA 310-A:179)

License No. 157

Page 189

1 A. I do not recall that, no, I don't, but I
2 mean, you asked me a lot of questions that day. So,
3 I don't recall you asking me specifically about
4 this.

5 Q. Well, do you recall in sending the draft
6 investigation report to Dean Madden, that the
7 Committee comprised of you and Professor Loparo made
8 some recommendations to the provost?

9 MR. CHABOT: I'll object to the form.

10 You can answer, sir.

11 A. A draft report is a draft report. The draft
12 report is not directly making recommendations to the
13 provost. It's a draft.

14 Q. Do you recall that the draft report states
15 that there are recommendations to the provost?

16 A. If you want to show them to me, then that's
17 fine. Then I'll say -- you know, I'm not sure why
18 you need me to say what's already on the page, but
19 if you want to point it out, then I'll look at it.

20 Q. Attorney Barnes, I will scroll down to Page
21 19 of this draft report, and do you see the Section
22 VI, Conclusion?

23 A. I see it.

Page 190

1 Q. And under Section VI, there's the second
2 paragraph where it says, "We did, however, find
3 Professor Farid's behavior toward his student
4 reprehensible" --

5 A. Yes, I see that.

6 Q. -- "and his submission of a collaborative
7 work without proper authorship attribution a breach
8 of professional ethics."

9 Do you see that?

10 A. Yes.

11 Q. Then it says, "The Committee resolves that
12 Mr. Hegde deserves authorship credit for his months
13 of hard work and overall contribution to the
14 Manuscript."

15 Do you see that?

16 A. Yes. It says that.

17 Q. And then it says, "We therefore recommend
18 that Professor Farid be given ten days after receipt
19 of the final report to approach IEEE Access and
20 request that Mr. Hedge be added as coauthor."

21 My question is, where in the Dartmouth
22 research misconduct policy does it state that the
23 investigating committee makes recommendations to the

Page 191

1 provost?

2 MR. CHABOT: Objection to the form.

3 You can answer.

4 A. I'm sorry. Say that again.

5 Q. Where in the Dartmouth research misconduct
6 policy does it state that the Investigation
7 Committee makes recommendations to the provost?

8 MR. CHABOT: Same objection.

9 You can answer.

10 A. Where does -- I mean, that is a compound
11 question.

12 Q. No, it isn't. It's a single question.

13 Where in the policy does it say --

14 A. You said "where," which presumes that it
15 exists in the policy. You say "where," so, that's a
16 compound question.

17 Q. You were working under the research
18 investigation policy in this investigation, weren't
19 you?

20 MR. CHABOT: Object to the form.

21 A. We were, as I have said to you before, and I
22 do recall I said this multiple times to you, we were
23 working under the research misconduct policy in

Page 192

1 order to evaluate allegations about the work of
2 Professor Farid. That's what we were doing.

3 Q. Does the research misconduct policy call
4 upon the Investigation Committee to make
5 recommendations to the provost?

6 A. I don't have the policy in front of me, but
7 I can tell you that in general, yes, there are
8 recommendations -- recommendations in any research
9 misconduct policy are ultimately made by either an
10 inquiry committee or, in this case, an Investigation
11 Committee to the person who is the deciding official
12 for research misconduct at the institution. That's
13 the way it works under any research policy that
14 conforms to the federal guidelines.

15 I mean, if you want to show me the
16 research misconduct policy, I can look at that too.

17 Q. I will. I'm sharing with you what's
18 previously been marked Exhibit 7 in this deposition.

19 (Witness provided Barnes Exhibit 7.)

20 Q. This is the Dartmouth College research
21 misconduct policy and procedures that you've already
22 testified about.

23 MS. GUGEL: Joe, are you asking him

Page 193

1 about a specific portion of the policy?

2 MR. SULMAN: I'm going to get to those
3 questions, thank you.

4 Q. On Page 17 of the pdf, and I'll scroll up to
5 show you what this is, this is under the Section VI
6 Investigation.

7 Do you see that?

8 A. I see that, yes.

9 Q. It says, Section D, Investigation Report, do
10 you see that?

11 A. Yes.

12 Q. Can you read what's included under Section
13 Investigation Report to yourself?

14 A. Yeah, but I think you should let me read
15 above where it says what the investigation is
16 supposed to consist of.

17 Q. There you go. Sure.

18 A. Thank you. "Includes examination of all
19 research records and evidence relevant to reaching a
20 decision on the merits of the allegations."

21 Q. Where are you reading?

22 A. I'm reading B(1)(a). "Maintain detailed
23 records, interview the Respondent and Complainant."

3 Q. You also left off, "And any other available
4 person who has been reasonably identified as having
5 information regarding any relevant aspects."

6 MR. CHABOT: I'll just object to the
7 form.

8 A. "Pursued diligently all significant issues
9 and leads discovered, including" -- doesn't say
10 limited to -- "including any evidence of additional
11 instances of possible research misconduct and
12 continue the investigation to completion."

13 Okay. So, I see that.

14 So, what's your question?

15 Q. Do you see anywhere where it says the
16 Investigation Committee shall make recommendations?

17 A. The Investigation Committee, that's the
18 point -- I mean, you can call it anything you want
19 to. A report, in my world, makes recommendations,
20 summarizes findings and it makes recommendations.

21 Q. Can you look at Section VII here where it
22 says, "College Administrative Action As a Result of
23 Investigation"?

Page 195

1 A. Yes, I see that.

2 Q. Here it says, "If it is determined that
3 research misconduct occurred, the Provost, in
4 consultation with the Dean and other responsible
5 College officials, shall recommend the appropriate
6 actions to be taken according to applicable College
7 disciplinary procedures for faculty, staff, and
8 students."

9 Do you see that?

10 A. Yes.

11 Q. Okay. And did you read the policy before
12 you wrote your, before you helped draft the report?

13 MR. CHABOT: Object to the form. I'm
14 sorry, Attorney Barnes. Object to the form.

15 Go ahead.

16 A. I'm familiar with the policy. And I, in
17 general, but I haven't read it in the last few
18 weeks, and I believe I was familiar with it at the
19 time that I worked on the committee as a member of
20 the committee.

21 Q. So, even though the policy talks about the
22 provost making recommendations, you believe that it
23 was also appropriate for the Investigation Committee

Page 196

1 to makes recommendations.

2 MS. GUGEL: Objection to form.

3 And, Joe, are you asking about this
4 specific section that you're showing?

5 MR. SULMAN: I'm talking about the full
6 policy.

7 MS. GUGEL: Well, then you should please
8 give him an opportunity to review the entire policy.

9 MR. SULMAN: I can give him whatever he
10 wants.

11 A. I don't understand. What's your question?
12 What's your question?

13 Q. The question is, the policy specifically
14 talks about the provost making recommendations for
15 appropriate actions.

16 In that light, you also believe that the
17 policy allows the Investigation Committee to make
18 recommendations?

19 MS. GUGEL: Objection to form.

20 A. Why don't you go down and let me finish
21 reading it. Okay. Keep going.

22 Is that the end of the policy?

23 Q. I believe so.

Page 197

1 A. Okay. So, tell me the question again.

2 What's the question?

3 MR. SULMAN: Ms. Mitchell, can you read
4 back the question?

5 (Last question read back by Reporter.)

6 Q. I meant to say in that policy.

7 A. I'm sorry. I'm confused about what you're
8 asking. Why don't you just say it from the top
9 exactly the question that you want me to answer
10 because you qualified it in different ways. So, I
11 don't know what I'm answering.

12 Q. Considering that the policy specifically
13 references the provost recommending appropriate
14 actions to be taken, is it your position that the
15 Investigation Committee can also recommend
16 appropriate actions according to this policy?

17 MS. GUGEL: Objection to form.

18 A. Whether the Investigation Committee can make
19 recommendations or not is not dependent on whether
20 the provost makes recommendations. They're two
21 separate issues.

22 So, I don't know why you're calling my
23 attention to this when you're asking about the

1 other.

2 Q. Well, so, is your answer then, yes, you
3 believe that the Investigation Committee can make
4 recommendations for actions consistent with this
5 policy?

6 A. I think that an Investigation Committee that
7 goes through all the evidence and tries to make a
8 determination on whether something is research
9 misconduct or not, I think that at the end of it, a
10 peer review committee like that or review committee
11 like that finds all sorts of things and cannot
12 ignore the things that it finds in the course of
13 doing what it does, in the same way that if someone,
14 that if someone is looking for X and they find Y
15 along the way, they're not silent about it if it's
16 important.

17 This is an academic proceeding. And,
18 so, we look at, in order to resolve the research
19 misconduct allegation, we try to look at the entire
20 context of what happened between the two parties.

21 So, you can call it a recommendation.

22 You can call it a rooster crowing at midnight. We
23 gave a report that said what we thought about what

Page 199

1 had happened here.

2 Q. Did anyone associated with Dartmouth ever
3 ask the Committee to make recommendations?

4 A. Well, the whole point was to make a finding
5 about research misconduct as the core thing. So, of
6 course they asked us that.

7 See, you're asking these questions that
8 are like blue-sky questions, they don't make any
9 sense.

10 Q. Do you understand the difference between a
11 finding and a recommendation?

12 A. Why don't you tell me what the difference is
13 between a finding and a recommendation if you're so
14 certain here?

15 Q. I don't answer questions here.

16 Do you understand the difference between
17 making a finding whether research misconduct
18 occurred or not and making a recommendation for
19 remedial action in light of the findings you made?

20 MR. CHABOT: Object to the form.

21 MS. GUGEL: Objection to the form.

22 A. In any situation in research misconduct, the
23 Investigation Committee, like the Inquiry Committee,

Page 200

1 it draws up a report of what it found. It
2 recommends or does not recommend certain things
3 based on what it found, and it sends the
4 recommendation to the deciding official of the
5 university or other research institution, and that's
6 what we tried to do. I've said that many times.

7 Q. Listen to the question.

8 Did anyone at Dartmouth ask you, ask the
9 Committee to make recommendations for remedial
10 actions, any type of actions after making factual
11 findings?

12 MR. CHABOT: Object to the form.

13 You can answer.

14 A. I don't know whether they asked us to do
15 that or not. I don't remember what was, what I was
16 asked to do, not to do.

17 I will tell you, you're not going to
18 believe this but I'll tell you that in research
19 misconduct proceedings, investigation committees,
20 after they make their findings, they make many
21 recommendations. That is not atypical, not
22 atypical.

23 Q. Back to, I'm sharing Exhibit 24 again.

Page 201

1 A. Okay.

2 Q. On Page 4, you mentioned or the Committee
3 mentions that Professor Farid's attorney sent a --
4 threatened litigation against the Complainant.

5 Do you see is that?

6 A. I see that.

7 Q. Why did the Committee mention that in the
8 draft complaint?

9 A. Well, I would say that, as I have said many
10 times before as you have asked me questions, that in
11 order to try to understand a research misconduct
12 allegation, one tries as a committee member to
13 understand the entire context of the interactions of
14 the parties.

15 Q. This interaction occurred well after
16 Mr. Hegde had left Professor Farid's lab, correct?

17 MR. CHABOT: Object to the form.

18 You can answer.

19 A. I don't know. Your threatening letter to
20 him, if it was you who threatened him, I don't have
21 it in front of me.

22 Q. So, you didn't know when you wrote this
23 draft complaint whether the letter was sent during

Page 202

1 Mr. Hegde's time in the lab or afterwards?

2 MS. GUGEL: Object to form.

3 A. I don't remember everything that I wrote,
4 that I edited, that I saw. It's been a year or more
5 ago now. I don't remember.

6 Q. How did that relate to investigating whether
7 Professor Farid engaged in research misconduct?

8 MR. CHABOT: Objection.

9 You can answer.

10 A. Well, I think that the two committee members
11 were very concerned about the kind of relationship
12 that Professor Farid had with Mr. Hegde and how he
13 had acted toward him. And when one looks at a
14 course of behavior, even if it comes after the
15 alleged incident of research misconduct, that kind
16 of course of behavior can allow one to assess things
17 like credibility, honesty. It can be a check on
18 what kind of character anyone is, any witness or
19 respondent or complainant.

20 So, we try to look at the totality of
21 the interactions of the parties to understand so
22 that we can understand what happened. It's not a
23 court of law. It's a peer-review process.

Page 203

1 Q. A process determining whether Mr. Hegde --
2 well, first, it was a process to determine whether
3 Professor Farid committed research misconduct,
4 correct?

5 MR. CHABOT: Object to the form.

6 You can answer.

7 Q. You're not determining whether he's a good
8 person, are you?

9 MR. CHABOT: Same objection.

10 You can answer.

11 A. Look, I've already answered that --

12 Q. No, no. Answer that question.

13 You're not determining whether he's a
14 good person, are you?

15 MR. CHABOT: Same objection.

16 You can answer.

17 A. I can't even tell what you're asking. What
18 are you asking?

19 Q. Are you determining whether Professor Farid
20 is a good person?

21 A. That is not the goal. It's to understand
22 the character and responsibilities, duties,
23 obligations, course of conduct, credibility of the

Page 204

1 parties who are involved. That's what one does.

2 Q. You're determining his character?

3 A. You're trying to take it into account in
4 trying to assess the allegation of research
5 misconduct.

6 Q. Now, going back to Page 3 of the October 18
7 draft report, after talking about how Professor
8 Farid's attorney sent a letter threatening
9 litigation, you talk, a couple lines down, about
10 how, instead of agreeing to appear before the
11 Committee, Professor Farid sent a 311-page document
12 to the Committee without explaining what the
13 documentation was or how it related to the
14 proceeding, correct? Correct?

15 A. I'm sorry. You were just reading something
16 of the text. The text says what the text says. You
17 read it.

18 Q. Thank you. Did you or anyone from the
19 Committee ever seek out Professor Farid to ask him
20 questions about the submission?

21 A. Did we seek him out? We invited him to come
22 and talk to the Committee, and he declined to do so.

23 Q. After you received this submission, did

Page 205

1 anyone from the Committee ever seek him out and ask
2 him questions about the submission?

3 A. He had an open invitation to come talk to
4 the Committee. He chose not to.

5 Q. I don't think you're responding to my
6 question.

7 After you received what you described
8 here as a 311-page submission, did the Committee
9 ever send an e-mail or contact him with any
10 questions about it?

11 MR. CHABOT: Objection to the form.

12 You can answer.

13 A. We did not contact him because it was an
14 undifferentiated mass of documents.

15 Q. What do you mean by -- that's a term that
16 was also used in the report.

17 What do you mean by "undifferentiated
18 mass of documents"?

19 A. Neither I nor Ken Loparo -- and Ken is much,
20 is an expert in this area; I'm not an expert in the
21 subject matter area of AC optimal power flow, but
22 neither Ken nor I could understand anything about
23 the submission. We couldn't understand what it

Page 206

1 meant, what it was, what it signified. He had
2 declined to come and talk to the Committee, though
3 invited several times.

4 So, that's -- and he also received a
5 copy of the draft report. So, if he had wanted in
6 his response to the draft report to have explained
7 in detail what in the world it meant, I guess he
8 could have done that.

9 Q. I'm asking about your use of the term
10 "undifferentiated." What do you mean by that?

11 A. I mean that it didn't make any sense.

12 Q. Did anyone from Dartmouth tell you that they
13 had attempted to hire a consultant to look at the
14 report?

15 MR. CHABOT: I will object to the form.

16 You can answer.

17 A. To my knowledge, I've never heard that
18 before.

19 Q. Did you ever, did anyone else from your firm
20 review the submission, the 311-page submission?

21 MR. CHABOT: Object to the form.

22 A. Did anyone else at my firm? I think I told
23 you that a woman named Evelyn Jackson, who is an

Page 207

1 associate here, who acted as our scribe in this
2 process, she organized exhibits, and I believe that
3 she, in all likelihood, looked at the 300 pages, but
4 I didn't ask anyone else here to look at that.

5 Q. And did you have discussions with Evelyn
6 about her impressions of the submission?

7 MR. CHABOT: Object to the form.

8 You can answer.

9 A. Yes.

10 Q. And what was --

11 A. Yes, I believe I did. I don't recall the
12 exact conversations, but I believe I did.

13 Q. What do you recall about those discussions?

14 A. What I recall about the discussions is her
15 agreeing that she tried to look at it and understand
16 what it all meant, and she couldn't make heads or
17 tails of it either just like Ken couldn't and I
18 couldn't.

19 Q. Did you and/or Attorney Jackson ever present
20 any analysis of the submission in meetings with
21 Professor Loparo?

22 MR. CHABOT: Object to the form.

23 You can answer.

Page 208

1 A. Did we ever present -- I think that, I think
2 that Ken and I discussed it because he had looked at
3 it as well.

4 Q. And can you describe those discussions?

5 A. Well, I think Ken said that he had looked at
6 it, and the two previous Committee members had
7 looked at it, and they couldn't make heads or tails
8 of it. It didn't seem to correspond to what the
9 issues were. And it was, again, an undifferentiated
10 mass of documents without a clear line of
11 argumentation in it. I think that's what he said.

12 Q. And what did you and Attorney Jackson say to
13 him?

14 MR. CHABOT: Object to the form.

15 A. I do not remember what we said to him, but I
16 tried to listen to Ken because Ken is an expert in
17 this area.

18 Q. Did you present any type of analysis or
19 opinion on the submission by Professor Farid other
20 than this is an undifferentiated mass of documents
21 or words to that effect?

22 MR. CHABOT: Same objection.

23 You can answer.

Page 209

1 A. I think I've -- you've asked me what our
2 conversations were, Ken and my conversations. I
3 think I've answered that question.

4 Q. I understand. I'm just asking.

5 Now, do you recall presenting any
6 information to Professor Loparo other than the fact
7 that you did not understand the submission?

8 MR. CHABOT: Same objection.

9 You can answer.

10 A. I don't know. I don't remember everything
11 that I said to Ken and he said to me. We had
12 multiple phone calls and Zoom meetings, so, I don't
13 know. I don't remember. They weren't recorded, I
14 don't know. I know we talked about, as I've said, I
15 know we talked about the submission.

16 Q. Now, presenting to you what I'm going to
17 mark as Exhibit 25 in this. And I'll send it to the
18 court reporter later.

19 (Marked, Exhibit 25, document titled "A
20 Definitive Analysis of the Provenance of 'A
21 Profit-Maximizing Security-Constrained IV-AC Optimal
22 Power Flow Model and Global Solution,' by Amro M.
23 Farid," dated October 15, 2023.)